

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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GREGORY FERGUSON, 95A1149,

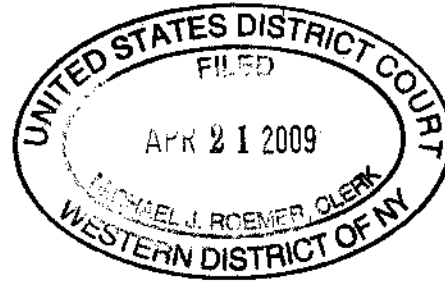
Plaintiff,

-v-

TERRANCE STEVENS,

Defendants.

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-PS-O-

DECISION AND ORDER  
09-CV-0328S(Sc)

Plaintiff, George Ferguson, filed what the Court believed was a complaint and application to proceed *in forma pauperis* in a new action. However, upon receipt of information regarding the filing of this new action, plaintiff forwarded two letters to the Court, dated April 6 and 10, 2009, indicating that the complaint was intended as an amended complaint in an action already pending in this Court, *Ferguson v. T. Stevens*, 08-CV-0506S, and not a complaint in a new action. The Clerk of the Court is directed to docket both these letters in this action.

Accordingly, the Clerk of the Court is directed to (1) close this action; (2) docket the complaint in this action as an amended complaint in 08-CV-0506S; and (3) cause the United States Marshals Service to serve the summons and amended complaint on defendant T. Stevens in 08-CV-0506S. The Clerk of the Court is also directed to docket of copy of this Decision and Order in 08-CV-0506S.

If defendant T. Stevens has been served already with the summons and complaint in 08-CV-0506S, as previously directed in that action, he is relieved of any obligation to answer or otherwise respond to that complaint and is hereby directed to answer, pursuant to 42 U.S.C. § 1997e(g)(2), upon service, the amended complaint in 08-CV-0506S. In the event defendant has been served in

08-CV-0506S, the Clerk of the Court is directed to forward a copy of this Order to the Assistant Attorney in Charge, Main Place Tower, Suite 300A, 350 Main Street, Buffalo, New York 14202.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

DATED:

April 21, 2009  
Rochester, New York